

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
Jerry A. Pickering

Group Art Unit: 3726

Examiner: Sarang Afzali

FUSER MEMBER AND FUSER
MEMBER SURFACE LAYER

Serial No. 10/691,778
Filed October 23, 2003

Mail Stop APPEAL BRIEF - PATENTS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPELLANTS' REPLY BRIEF

This Reply Brief is necessitated by several "new points of argument" in the Examiner's Answer mailed March 31, 2009.

In the "Response to Argument" section of the Answer, the Examiner states at page 9 that "Donnelley et al is relied upon to teach the use of the claimed filler composition and mean particle diameter in a fuser member **irrespective** of how the filler particles are added and **regardless** of Donnelley's teaching about the 'silicone elastomer', as the Appellants argue" (emphasis added). Such refusal to consider the actual context of the teachings of the applied reference represents clear error, as the actual teachings of such reference in such actual context would not lead one skilled in the art to the present claimed invention (i.e., the use of relatively large mean particle diameter polytetrafluoroethylene particles to enable a gloss advantage when using a fuser element comprising a fluoroelastomer surface layer).

As has been explained in Appellant's brief, Donnelly et al only suggests the use of Teflon for reinforcing silicone elastomer fusing blankets, and specifically teaches that the Teflon and silicone elastomer are mixed under high shear so as to result in threads or fibers of Teflon being formed to provide a fiber structure within the silicone elastomer. Col. 5, lines 55-70 of Donnelley et al teach that the critical

reinforcing effect is only obtained where the Teflon and silicone elastomer are thoroughly intermixed by milling, and that the desired reinforcing properties are not obtained by simply mixing the fluorocarbon resin with a silicone gum without milling. As there is no teaching of the resulting actual particle size of such threads or fibers of Teflon resulting from the actual teaching of Donnelley et al, the Examiner's reliance upon Donnelley et al for the "mean particle diameter" is further in clear error. The present invention, on the other hand, in clear distinction from Donnelley et al, clearly teaches in paragraph [0135] that in order to retain the particle size of polytetrafluoroethylene particles as employed in the invention, they are not dry compounded with the fluoroelastomer. Thus, the teachings of the applied references are clearly distinct from the present claimed invention. The combined teachings of Donnelley et al and Eddy et al would accordingly not result in the use of polytetrafluoroethylene particles with at least the claimed minimum mean particle diameter so that in fusing toner to substrate, the fuser member generates an image having a gloss number of about 5 or less as required by the present claimed invention.

It is further noted that Eddy et al. only teaches particle sizes specifically for two sizes of alumina particles, and further only employs alumina particles which have a first size of 1 micrometer and a second size of submicron size in the examples thereof, and thus does not overcome the deficiencies of Donnelley et al with regard to polytetrafluoroethylene particle size. Thus the combination clearly does not teach or suggest the present claimed invention. Rather, it is clear the Examiner continues to apply only partial teachings of such references in a hindsight manner that is clearly not suggested by such references.

For these reasons, as well as those presented in Appellants' Brief, Appellants respectfully submit that the Final Rejection is in error, and they request its reversal by the Honorable Board.

Respectfully submitted,



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